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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/661,798	09/12/2003	Michel Samson	9409/2023F	8368
29933 7:	590 04/13/2006		EXAMINER	
PALMER & DODGE, LLP			LI, RUIXIANG	
KATHLEEN M	I. WILLIAMS STON AVENUE		ART UNIT	PAPER NUMBER
BOSTON, MA	02199		1646	

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

		Applic	ation No.	Applicant(s)				
Office Action Summary		10/66	1,798	SAMSON ET AL.				
		Exami	ner	Art Unit				
		Ruixia		1646				
Period fo	The MAILING DATE of this commun or Reply	ication appears on	the cover sheet w	vith the correspondence ac	ddress			
WHIC - Exter after - If NO - Failu Any	ORTENED STATUTORY PERIOD F CHEVER IS LONGER, FROM THE M SISIONS of time may be available under the provisions SIX (6) MONTHS from the mailing date of this comm of period for reply is specified above, the maximum street to reply within the set or extended period for reply reply received by the Office later than three months a ded patent term adjustment. See 37 CFR 1.704(b).	AILING DATE OF of 37 CFR 1.136(a). In no nunication. atutory period will apply ar will, by statute, cause the	THIS COMMUN be event, however, may a and will expire SIX (6) MO application to become A	ICATION. reply be timely filed NTHS from the mailing date of this c BANDONED (35 U.S.C. § 133).				
Status								
1)	Responsive to communication(s) file	ed on						
2a)□	This action is FINAL . 2b)⊠ This action is non-final.							
3) 🔲								
	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.							
Dispositi	on of Claims							
4)🖂	Claim(s) 1-15 is/are pending in the a	pplication.						
	4a) Of the above claim(s) is/are withdrawn from consideration.							
5) 🔲	5) Claim(s) is/are allowed.							
6)	Claim(s) is/are rejected.							
7)	Claim(s) is/are objected to.							
8)⊠	Claim(s) <u>1-15</u> are subject to restricti	on and/or election	requirement.					
Applicati	on Papers							
9) 🔲	The specification is objected to by th	e Examiner.						
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.								
	Applicant may not request that any obje	ction to the drawing(s) be held in abeya	nce. See 37 CFR 1.85(a).				
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).								
11)	The oath or declaration is objected to	by the Examiner.	Note the attache	d Office Action or form P	ΓO-152.			
Priority u	ınder 35 U.S.C. § 119							
•—	Acknowledgment is made of a claim All b) Some * c) None of:	•		§ 119(a)-(d) or (f).				
	 Certified copies of the priority documents have been received. Certified copies of the priority documents have been received in Application No 							
	3. Copies of the certified copies				Stage			
	application from the Internation	·			9-			
* S	see the attached detailed Office action	•		t received.				
Attachmen	t(s)							
1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413)								
	e of Draftsperson's Patent Drawing Review (F			Paper No(s)/Mail Date Notice of Informal Patent Application (PTO-152)				
	nation Disclosure Statement(s) (PTO-1449 or r No(s)/Mail Date	r i U/35/U8)	6) Other:	* *	02,			

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Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-5 and 11-15, drawn to a method for identifying a compound which decreases infectivity of a cell by HIV, comprising measuring infectivity of said cell by said HIV, classified in class 435, subclass 5.
 - II. Claims 6-10, drawn to a method for identifying a compound which decreases infectivity of a cell by HIV, comprising measuring binding of a candidate compound to a polypeptide, classified in class 435, subclass 7.1.
- 2. The inventions are distinct, each from the other for the following reasons. Inventions II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP §806.04, MPEP §808.01). In the instance case the different inventions are drawn to completely different methods each having completely different method steps and using different compositions. Invention group II requires measuring binding of a candidate compound to a polypeptide, whereas Invention does not. Thus, the methods are exclusive and require non-cohesive searches and considerations.
- 3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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4. Because these inventions are distinct for the reasons given above and the search

required for a single group is not required for any other group, restriction for

examination purposes as indicated is proper.

5. The application contains claims directed to three amino acid sequences. Each

individual sequence represents a structural and functionally distinct entity that is

capable of supporting a separate patent. The search and consideration of more than

a single sequence constitutes an undue search burden on the office, given the ever-

increasing size of the database.

Species Election

6. This application contains claims directed to the following patentably distinct species

of the claimed invention: HIV proteins p24 and GP120/GP160, as listed in claims 4,

5, 9, 10, 14 and 15. The species are completely different, not interchangeable, and

require non-cohesive searches and considerations.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species

for prosecution on the merits to which the claims shall be restricted if no generic

claim is finally held to be allowable. Currently, claims 3, 8, and 13 are generic.

Applicant is advised that a reply to this requirement must include an

identification of the species that is elected consonant with this requirement, and a

listing of all claims readable thereon, including any claims subsequently added. An

argument that a claim is allowable or that all claims are generic is considered

nonresponsive unless accompanied by an election.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02 (a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103 (a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48 (b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48 (b) and by the fee required under 37 CFR 1.17 (l).

Advisory Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruixiang Li whose telephone number is (571) 272-0875. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00

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pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor. Brenda Brumback, can be reached on (571) 272-0961. The fax number for

the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the

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Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, please contact the Electronic

Business Center (EBC) at the toll-free phone number 866-217-9197.

Rusciang L.

Ruixiang Li, Ph.D. **Primary Examiner**

April 12, 2006

RUIXIANG LI, PH.D. PRIMARY EXAMINER